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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Computer III Further Remand Proceedings;
Bell Operating Company
Provision of Enhanced Services

)
)
) CC Docket No. 95-20

1998 Biennial Review --
Review of *Computer III* and ONA
Safeguards and Requirements

)
) CC Docket No. 98-10
)

To: The Commission - Mail Stop 1170

COMMENTS OF CONECTIV COMMUNICATIONS, INC.

1. These comments are filed by Conectiv Communications, Inc. ("Conectiv") in response to the Commission's *Further Notice of Proposed Rule Making* in this proceeding, FCC 98-8, released January 30, 1998. Conectiv is a facilities-based competitive local exchange carrier ("CLEC") operating in Delaware and Pennsylvania, with plans to expand into New Jersey and Maryland during the second quarter of this year. Conectiv currently resells services of Bell Atlantic, both to supplement its facilities and for start-up purposes before migrating customers to its own facilities. Conectiv's business plan calls for service to both businesses and residences.

2. The Commission has proposed that the distinction between "basic" and "enhanced" services under its *Computer III* rules be deemed the same as between "telecommunications" and "information" services under the Telecommunications Act of 1996. Among other things, telemessaging services (including voice mail) have previously been ruled to be enhanced services; so the Commission proposes to treat them as information services in the future.

3. Conectiv believes that voice mail must be singled out for special consideration. There is no difference between basic voice transmission and voice mail except for the act of storing the voice transmission for later retrieval by the intended recipient. There is no change in the form or content of the message. The definition of "telecommunications" in Section 3(43) of the Communications Act specifically excludes only changes in form or content, not the time of receipt. The definition of "information service" in Section 3(20) mentions storing or retrieving "information" via telecommunications but does not suggest that pure voice recording is "information." Thus it is not clear that voice mail is an information service, nor is it clear that telecommunications and information are completely mutually exclusive categories such that voice mail can fall within only one of them.

4. The classification of voice mail is critical, because if it is not a telecommunications service, incumbent local exchange carriers ("ILECs") do not have to allow it to be resold. And in fact, Bell Atlantic, the ILEC in the areas serviced by Conectiv, has absolutely refused to permit resale of voice mail except where compelled to do so by state law; and even there, no wholesale discount has been permitted. This refusal by BA has had a serious adverse impact on Conectiv's entry into the competitive marketplace.

5. Customer perception has always been an important test of how services are classified. Voice mail is marketed by ILECs together with vertical switching services, such as Caller ID, call forwarding, three-way calling, and speed calling, which have been classified as ancillary to basic and are thus telecommunications services. They are marketed by the same order-taking personnel, listed together in the white pages telephone directory, and covered by mailings to the same customers. The result is that over time, customers have come to perceive voice mail as ancillary

to their basic telephone service. The Commission must respond to this significant and recent change in the marketplace; and the regulation of voice mail now requires special and detailed attention, especially in view of BA's strident efforts to impede competition by refusing to allow resale.

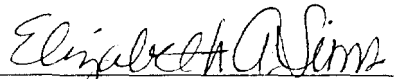
6. Recently, the Telecommunications Resellers Association ("TRA") filed a petition for a declaratory ruling that ILECs be required to permit the resale of voice mail, File No. CCB/CPD 98-16. The Commission has invited comments on that petition, due April 21, 1998.^{1/} Conectiv is planning to file comments. Meanwhile, Conectiv urges the Commission to consider the voice mail issue in the TRA proceeding and not to take any general action in the instant proceeding that will prejudice the outcome of the TRA proceeding. The question of how voice mail is be classified should be expressly excluded from this proceeding and deferred to a separate proceeding where facts concerning specific marketplace changes affecting voice mail can be properly gathered and evaluated.

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Respectfully submitted,


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^{1/} See Public Notice, DA 98-520, released March 17, 1998.

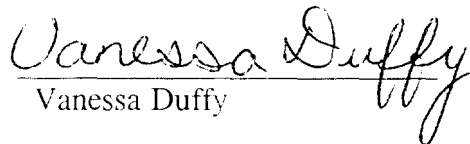
CERTIFICATE OF SERVICE

I, Vanessa Duffy, do hereby certify that I have, this 23rd day of March, 1998, caused to be sent by first class United States mail, postage prepaid, copies of the foregoing "Comments of Conectiv Communications, Inc." to the following:

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